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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA

Plaintiff,

v.

DENZEL TRAMEL SWINTON,

Defendant.

MEMORANDUM DECISION AND  
ORDER DENYING DEFENDANT'S  
MOTION TO PRODUCE

Case No. 2:22-CR-121-TS

District Judge Ted Stewart

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This matter is before the Court on Defendant's Motion to Produce. Defendant moves the Court to order the government to produce to Defendant "all statements and witnesses who testify at trial that are or come to be in the government's possession and that relate to the subject matter of the witnesses' testimonies."<sup>1</sup> The government asserts that the Motion is "premature in that it seeks pre-direct examination production of witness statements and, therefore, should be denied."<sup>2</sup>

The Court agrees with the government. 18 U.S.C. § 3500(a) states that "[i]n any criminal prosecution brought by the United States, no statement or report in the possession of the United States which was made by a Government witness or prospective Government witness (other than the defendant) shall be the subject of [subpoena], discovery, or inspection until said witness has testified on direct examination in the trial of the case." It is not until "after a witness called by the

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<sup>1</sup> Docket No. 29 at 1.

<sup>2</sup> Docket No. 38 at 2.

United States has testified on direct examination” that a defendant may successfully move the court to order the defendant to produce any statement of a witness.<sup>3</sup>

The government asserts that it has provided all statements of witnesses that have testified on direct examination in this matter to Defendant up to this point. Defendant did not file a reply arguing otherwise.

It is therefore

ORDERED that Defendants’ Motion to Produce (Docket No. 29) is DENIED without prejudice.

DATED this 31<sup>st</sup> day of October, 2022.

BY THE COURT:



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Ted Stewart  
United States District Judge

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<sup>3</sup> 18 U.S.C. § 3500(b); see also Fed. R. Crim. P. 26.2(a) (“After a witness other than the defendant has testified on direct examination, the court, on motion of a party who did not call the witness, must order an attorney for the government or the defendant and the defendant’s attorney to produce, for the examination and use of the moving party, any statement of the witness that is in their possession and that relates to the subject matter of the witness’s testimony.”).